UNITED STATES PATENT AND TRADEMARK OFFICE

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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>11/13/06</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-142</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-142</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This is in response to the applicant's communication filed on November 13, 2006,

wherein:

Claims 1-142 are currently pending;

Claims 1, 23, 56, 65, 72, 94, 127 and 136 have been amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-17, 19, 22-49, 51, 55-64, 72-88, 90, 93-120, 122, and 126-135 are

rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al (US 2004/0133793)

(hereinafter referred to as Ginter).

Referring to Claims 1 and 72:

Ginter discloses a computer implemented method and medium for managing a

contract (*[0012] under VDE, such an extended agreements may comprise an electronic

contracts [0053]*), comprising:

receiving, over a network, from a client/user computer that runs a browser

([0989][1892] [2238] user may either make use of a standard application program (e.g.

World Wide Web browser); browsing interface [2196]), an inquiry regarding licensing

of a first set of software under a particular contract *[0007-0008] Electronic content*

[0012] electronic contract, [0053] VDE can enable a very broad variety of electronically

enforced commercial and societal agreements. These agreements can include

electronically implemented contracts, licenses, laws, regulations, and tax collection;

[0078-0081] Electronic content [0093], [0161-0162], Figures 72A-72D, [0137] content

providers who employ the present invention may include software applications [0425]

*the "events" may include, for example, a **request to use content or generate a usage***

***permission;** a common example of this type of negotiation today is the purchase of*

software under the terms of a "shrink-wrap license"; [1947] an electronic contract is an

electronic form of an agreement including rights, restrictions, and obligations of the

parties to the agreement. In many cases, electronic agreements may surround the use

of digitally provided content; for example, a license to view a digitally distributed

movie);

in response to receiving the inquiry, accessing, at a management system

coupled to the client/user computer via a network (Figure 1), information pertaining to

the contract, the information comprising quota parameters which specifies a quota of

resources that can be consumed under the contract *(Figure 2A Rules and controls,*

*Figures 5A and 5B **Permissions record** (808) [0161-0162] parameters [0166] metering*

the number of copies, Figures 3 and 4, [0214],[0426-0433]);

determining a first licensing (subsets or extended agreements) amount

attributable to licensing the first set of software *([0012][0405] how much it costs to use*

the content, [0410-0411] specify how much it costs[0426-0431], Figure 26A (944)

number of rights record, Figure 50d (1718));

updating the quota parameter based, at least partially, upon the first licensing

amount *(Figure 61 (2239) update Meter, [0393])* ;

sending license terms/parameters/rules over a network to a licensing host that is

coupled to said management system via the network (Figure 1) and communicates with

the first set of software and enforces the license terms/parameters/rules relative to the

first set of software over the network (Figure 1; Figure 77, [0083] [0093] [0162-01634]);

and

allowing the first set of software to be used under the contract *(Figure 3 (402)*

GO, [0061-0062] distribution of permissions to use electronic information).

Referring to Claims 23 and 94:

Ginter discloses a computer implemented method and medium for managing a

contract (*[0012] under VDE, such an extended agreements may comprise an electronic*

contracts [0053])), comprising:

receiving, over a network from a user/client computer that runs a browser

program ([0989][1892] [2238] user may either make use of a standard application

program (e.g. World Wide Web browser browsing interface [2196]), at a management

system coupled to the client computer via a network (Figure 1) a first inquiry regarding

licensing of a first set of software under a particular contract *[0007-0008] Electronic*

content [0012] electronic contract, [0053] VDE can enable a very broad variety of

electronically enforced commercial and societal agreements. These agreements can

include electronically implemented contracts, licenses, laws, regulations, and tax

collection; [0078-0081] Electronic content [0093], [0161-0162], Figures 72A-72D, [0137]

content providers who employ the present invention may include software applications

*[0425] the "events" may include, for example, a **request to use content or generate a***

***usage permission;** a common example of this type of negotiation today is the*

purchase of software under the terms of a "shrink-wrap license"; [1947] an electronic

contract is an electronic form of an agreement including rights, restrictions, and

obligations of the parties to the agreement. In may cases, electronic agreements may

surround the use of digitally provided content; for example, a license to view a digitally

distributed movie);

in response to receiving the inquiry at the management system, accessing

information pertaining to the contract, the information comprising quota parameter which

specifies a quota of resources that can be consumed under the contract, and one or

more contract terms associated with the contract *(Figure 2A Rules and controls,*

*Figures 5A and 5B **Permissions record** (808) [0161-0162] parameters [0166] metering*

the number of copies, Figures 3 and 4, [0214],[0426-0433]);

determining a first licensing amount (subsets or extended agreements)

attributable to licensing the first set of software, said licensing amount determined, at

least partially, by applying one or more of the contract terms *([0012], [0174] VDE*

control information (including budgeting, pricing, and metering) can be configured so

that it can specifically apply, as appropriate, to ad hoc selection of different,

unanticipated variable user selected aggregations of information increments and pricing

levels can be, at least in part, based on quantities and/or nature of mixed increment
selections [0405] how much it costs to use the content, [0410-0411] specify how much it
costs, [0426-0431]; Figure 26A (944) number of rights record; Figure 50d (1718; [2319-
2321);

updating the quota parameter based, at least partially, upon the first licensing
amount *(Figure 61 (2239) update Meter, [0393])*;

sending license terms/parameters/rules from the management system over a
network to a licensing host that communicates with the first set of software and enforces
the license terms relative to the first set of software (Figure 77, [0083] [0093] [0162-
01634); and

allowing the first set of software to be used under the contract *([0062] Figure 3*
(402) GO).

Referring to Claims 56-64 and 127-135:

Ginter discloses a computer implemented method and medium for managing a
contract *([0012] under VDE, such an extended agreements may comprise an electronic*
contracts [0053]), comprising:

receiving, over a network, from a client/user computer that runs a browser
program ([0989][1892] [2238] user may either make use of a standard application
program (e.g. World Wide Web browser; browsing interface [2196]) at a management
system, an inquiry regarding licensing of a first set of software under a particular
contract *[0007-0008] Electronic content [0012] electronic contract, [0053] VDE can*
enable a very broad variety of electronically enforced commercial and societal

agreements. These agreements can include electronically implemented contracts,

licenses, laws, regulations, and tax collection; [0078-0081] Electronic content [0093],

[0161-0162], Figures 72A-72D, [0137] content providers who employ the present

invention may include software applications [0425] the "events" may include, for

*example, a **request to use content or generate a usage permission;** a common*

example of this type of negotiation today is the purchase of software under the terms of

a "shrink-wrap license"; [1947] an electronic contract is an electronic form of an

agreement including rights, restrictions, and obligations of the parties to the agreement.

In may cases, electronic agreements may surround the use of digitally provided

content; for example, a license to view a digitally distributed movie);

in response, accessing information from the management system pertaining to

the contract, the information comprising quota parameters which specifies a quota of

resources that can be consumed under the contract *(Figure 2A Rules and controls,*

*Figures 5A and 5B **Permissions record** (808) [0161-0162] parameters [0166] metering*

the number of copies, Figures 3 and 4, [0214],[0426-0433]);

accessing one or more other sets of information at the management system

pertaining to one or more other contracts related to the contract ([0012] and [0161-

0162]), each of the other sets of information comprising one or more contract terms

associated with one of the contracts (Figures 3-4, [0061] [0077-0081];

processing the information in a particular order and searching as each set of

information is processed to derive one or more applicable contract terms that apply to

the inquiry by reconciling the information to extract one or more applicable contract

terms and upon finding a contract term that applies, including the term as one or more applicable contract terms *[0061- 0067] a rights application under VDE is made up of special purpose pieces, each of which can correspond to one or more basic electronic processes needed for a rights protection environment. These **processes can be combined together like building blocks** to create electronic agreements that protect these rights, [0254] seniority of contributed control information [1209-1213] PERCs 808 are organized as a hierarchical structure; [0249-0255])*.

determining a first licensing amount attributable to licensing the first set of software, said licensing amount determined, at least partially, by applying one or more of the contract terms *([0012], [0405] how much it costs to use the content, [0410-0411] specify how much it costs, [0426-0431]; Figures 3 and 4 Figure 26A (944) number of rights record; Figure 50d (1718))*;

updating the quota parameter based, at least partially, upon the first licensing amount *(Figure 61 (2239) update Meter, [0393])*;

sending license terms/rules/parameters over a network to a licensing host that communicates with the first set of software and enforces the license terms relative to the first set of software (Figure 77, [0083] [0093] [0162-01634); and

allowing the first set of software to be used under the contract *([0062] Figure 3 (402) GO)*.

Referring to Claims 2, 5-10, 24, 29-37, 73, 76-81, 95, and 100-108:

Ginter discloses a method and medium further comprising:

receiving a second inquiry regarding licensing a second set of software, or

obtaining a service comprising technical support, or purchasing a product under the

contract or a set of property comprising intellectual property or proprietary information

([0017 electronic information products [0025] electronic products [0046-0052] [0071]

[0093] [0161-0162] [0174]);

determining a second licensing amount, service amount, purchasing amount

attributable to licensing the second set of software, obtaining the services, purchasing

the product, or licensing the property, by applying one or more contract terms *([0012],*

[0405] how much it costs to use the content, [0410-0411 specify how much it costs,

[0426-0431]; Figure 26A (944) number of rights record; Figure 50d (1718));

updating the quota parameter based, at least partially, upon the second licensing

amount, service amount, purchasing amount *(Figure 61 (2239) update Meter, [0393])*;

and

allowing the second set of software to be used under the contract, the service to

be rendered, the product to be purchased, or the property used *([0062] Figure 3 (402)*

GO).

Referring to Claims 3, 25, 74, and 96:

Ginter discloses wherein the first set of software and the second set of software

are different sets of software ([0012], [0061][0107] [0161], also see [2320]).

Referring to Claim 4, 26, 75, and 97:

Ginter discloses upgrades in paragraph [0649].

Moreover, the fact that the second set of software is an upgraded version of the first set of software is determined to be non-functional descriptive data since the method would be performed the same no matter whether the software was an upgrade or not. The type of software is not functionally interrelated with the steps of the invention and thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 217 USPQ 401 (CAFC 1983), *In re Lowry*, 32 USPQ2d 1031 (CAFC 1994).

Referring to Claims 11, 41, 82, and 112:

Ginter discloses wherein updating the quota parameter comprises reducing the parameter by the first licensing amount *(Figures 3 and 4 Figure 61 (2239) update Meter, [0393], [0161])*.

Referring to Claims 27-28 and 98-99:

Ginter discloses wherein the one or more contract terms applied to determine the first licensing amount are the same as/different from the one or more contract terms applied to determine the second licensing amount *([0061- 0067] a rights application under VDE is made up of special purpose pieces, each of which can correspond to one or more basic electronic processes needed for a rights protection environment. These **processes can be combined together like building blocks** to create electronic agreements that protect these rights, [0254] seniority of contributed control information [1209-1213] [0161-0163] agreement may also result from an automated electronic process during which terms and conditions are "evaluated" by certain VDE participant control information that accesses whether certain other electronic terms and conditions*

attached to content and/or submitted by another party are acceptable; such an

evaluation process may be quite simple, for example a comparison to ensure

compatibility [0161] VDEF capabilities "evolve" to reflect the requirements of one or

more successive parties; [0163] VDE participants directly, through a user interface

means, resolve "disagreements" between control information [0164] another party

(other than the first applier of rules), perhaps through a negotiation process, accepts,

and or adds to and/or modifies, "in place" content control information, a VDE agreement

between two or more parties related to the use of such electronic content by be created

[0249] the control information can determine for example how and/or to whom electronic

content can be provided).

Referring to Claims 12-16, 42-46, 48, 83-87, 113-117, and 119:

Ginter discloses wherein the first inquiry specifies one or more additional inquiry

parameters and wherein the amount is determined based, at least partially, upon at

least one of the additional inquiry parameters (*[0214] flexible metering, enables such*

flexibility of metering control mechanisms to accommodate different parameters [0055]

[0108] allows electronic commerce participants to freely stipulate their business

requirements and trade-offs) wherein the parameter is specified by the sender of the

inquiry and wherein the one or more parameters comprises indicating a desired amount

of time or duration of the license, how may users may concurrently use the software,

how may copies of the software are desired (*[0111] VDE can further be used to enable*

commercially provided electronic content to be made available to users in user defined

portions).

Referring to Claims 17, 49, 88, and 120:

Ginter discloses granting a license to use the item for a period of time (Figure 26A Expiration date/time for this record (932) [0189], [0190], [0196-0197], [216]).

Referring to Claims 19, 51, 90, and 122:

Ginter discloses disallowing use of the item under the contract (Figure 3 (402) NO GO).

Referring to Claims 22, 55, 93 and 126:

Ginter discloses receiving a request to deploy the software and deploying the software to a host specified by a sender ([0032-0035], [0061-0062]).

Referring to Claims 38-40, and 109-111:

Ginter discloses wherein the one or more contract terms comprise an uplift, a discount or a multiplier ([0174] discounted by 15% [0186-0190] pricing discounts).

Referring to Claims 47 and 118:

Ginter discloses wherein the first inquiry specifies a set of inquiry parameters, which include a reference to the first set of software and one or more additional inquiry parameters, and wherein determining the licensing amount comprises determining, based at least partially upon one or more of the inquiry parameters which of said one or more contract terms to apply to the first inquiry (*[0061- 0067] a rights application under VDE is made up of special purpose pieces, each of which can correspond to one or more basic electronic processes needed for a rights protection environment. These* **processes can be combined together like building blocks** *to create electronic agreements that protect these rights, [0254] seniority of contributed control information*

[1209-1213] [0161-0163] agreement may also result from an automated electronic process during which terms and conditions are "evaluated" by certain VDE participant control information that accesses whether certain other electronic terms and conditions attached to content and/or submitted by another party are acceptable; such an evaluation process may be quite simple, for example a comparison to ensure compatibility [0161] VDEF capabilities "evolve" to reflect the requirements of one or more successive parties; [0163] VDE participants directly, through a user interface means, resolve "disagreements" between control information [0164] another party (other than the first applier of rules), perhaps through a negotiation process, accepts, and or adds to and/or modifies, "in place" content control information, a VDE agreement between two or more parties related to the use of such electronic content by be created [0249] the control information can determine for example how and/or to whom electronic content can be provided)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 18, 20-21, 50, 52-54, 65-71, 89, 91-92, 121, 123-125 and 136-142 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter.

Referring to Claims 18, 20-21, 50, 52-54, 65-71, 89, 91-92, 121, 123-125 and

136-142:

Ginter discloses a computer-implemented method and medium for managing a

contract ([0012] electronic contract), comprising:

receiving, over a network, from a client computer that runs a browser program

([0989][1892] [2238] user may either make use of a standard application program (e.g.

World Wide Web browser browsing interface [2196]), at a management system, a

communication [2196];

accessing information pertaining to the license, the information comprising a

reference to a contract with one or more contract terms under which the license was

granted, the contract having quota parameters associated therewith which specify a

quota of resources that can be consumed under the contract; the information to the

license further comprising a licensing amount attributable to the licensing of the

software (*[0007-0008] Electronic content [0012] electronic contract, [0053] VDE can*

enable a very broad variety of electronically enforced commercial and societal

agreements. These agreements can include electronically implemented contracts,

licenses, laws, regulations, and tax collection; [0078-0081] Electronic content [0093],

[0161-0162], Figures 72A-72D, [0137] content providers who employ the present

invention may include software applications [0425] the "events" may include, for

*example, a **request to use content or generate a usage permission;** a common*

example of this type of negotiation today is the purchase of software under the terms of

a "shrink-wrap license"; [1947] an electronic contract is an electronic form of an

agreement including rights, restrictions, and obligations of the parties to the agreement.

In may cases, electronic agreements may surround the use of digitally provided content;

for example, a license to view a digitally distributed movie).

determining a first licensing (subsets or extended agreements) amount

attributable to licensing the first set of software *([0012][0405] how much it costs to use*

the content; [0410-0411] specify how much it costs[0426-0431], Figure 26A (944)

number of rights record, Figure 50d (1718));

sending license terms/parameters/rules over a network to a licensing host that

communicates with the first set of software and enforces the license terms relative to

the first set of software (Figure 77, [0083] [0093] [0162-01634]); and

Ginter discloses usage auditing, reporting, and payment [0078]. Ginter does not

disclose receiving a request to terminate a license, determining a refund amount and

updating the quota parameter based upon the refund.

However, customer service is a key factor in the success of any business. One

way to keep customers satisfied to provide refunds for unused portions or providing

credits for the unused portion. This practice of giving a customer a refund for unused

portions is an old and well established business practice, for example, when a customer

is dissatisfied with the product and wants to return the product. The practice is

designed to keep customers returning for services as shown in the following references

submitted as evidence of examples of a refund after termination of a license for

software in the Office action dated August 11, 2006.

1. EarthWeb provided ITKnowledge electronic book (ebook) services.

EarthWeb discloses that they will *fully reimburse* licensees for *unused portions* of the license.

2. US 2003/0040917 discloses that the browser application will allow listeners to listen to netcasts. In addition to single payments at the time of downloading, subscription arrangements may allow a predetermined number of downloads within a predetermined period of time (*with or without the possibility of refunds or rebates for unused opportunities* [paragraph [0122]).

3. US 2003/0126033 discloses once software is returned, a value is put on the returned along with full refunds, partial refunds, or no refund [0193] [0282].

Even as far back as 1971, a subscription communication system discloses in patent number 3,751,670 (Grodner et al) discloses an economically sound basis for the broadcaster to discontinue charging fro the remainder of the program.

Therefore, it would have been obvious to one of ordinary skill in the art to incorporate into the contract management method and medium disclosed in Ginter a refund mechanism since it makes good business sense to provide a credit for unused portions so as to maintain customer satisfaction and loyalty, thus generating return business.

Response to Arguments

4.   Applicant's arguments filed November 13, 2006 have been fully considered but they are not persuasive.

The applicant states that claim 1 requires that the license parameters be sent over a network from the management system to a licensing host that is coupled to the management system via the network. Applicant states that the cited portions of Ginter indicate that the "VDE content container" contains both content and certain control information related to the use of that content. Applicant then asserts that the Office action apparently analogizes this "control information" to the "license parameters" of claim 1 and that the cited portions of Ginter do not disclose that any "management system," which performs various operations as recited in claim 1 sends such "control information" over a network to any "licensing host" that is coupled to the management system via that network.

First, as for applicant's comments about the *cited portions* of Ginter, the Examiner cites particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Secondly, the applicant identifies the client system as:

[0027] The client 106 is the entity that is used by a customer to interact with the management system 102. Using the client 106, the customer may interact with the management system 102, for example, to browse a list of software available for licensing, submit an inquiry for a quote on a particular set of software, submit a request to carry out a transaction under a contract, and

manage and deploy licenses that have been obtained. For purposes of the present invention, **the client 106 may be any entity capable of communicating with the management system 102 via network 104.** In one embodiment, the management system 102 is implemented in an Internet environment. In such an implementation, **the client 106 may be a computer running a standard browser program 150.**

As for the language describing the licensing host, the Examiner finds the following disclosure in the specification:

> [0026] As shown, system 100 comprises a management system 102, a network 104, and a plurality of entities that invoke the functionality of the management system 102, **including a client 106, a licensing host 108, and a software host 110.** For the sake of simplicity, only one of each of these entities 106, 108, 110 is shown in FIG. 1, but it should be noted that the management system 102 is capable of interacting with any number of invoking entities. From a functional point of view, **each of the entities 106, 108, 110 is a separate component; however, from a physical standpoint, the entities 106, 108, 110 maybe embodied on any combination of machines. That is, all of the entities 106, 108, 110 may be embodied in the same machine, each entity may be embodied on a different machine, or some combination thereof.**

> [0028] Whereas the client 106 is used by a customer to select and license a set of software, the *licensing host 108 and the software host 110* are used by a user to actually run the software (**note: the user and the customer may be the same person or they may be different people). In one embodiment, the licensing host 108 runs a set of license management software 152. As will be explained further in a later section, the license management software 152 ensures that the terms of a license, once it is obtained from the management system 102, are enforced.** For example, the license management software 152 makes sure that the number of users using a set of licensed software does not exceed the number specified in a license.

Applicant's primary argument appears to be that Ginter does not disclose license parameters being sent over a network from the management system to a licensing host that is coupled to the management system via the network. The Examiner respectfully disagrees with applicant's assertion.

Ginter discloses a network (Figure 1). Figure 2 discloses a content creator who creates "content" and "rules and controls" (parameters) for distributing the content [0404]. These "rules and controls" are sent to the VDE rights distributor (distributor) over an electronic highway [0405]. The distributor generates her own "rules and controls" that relate to usage of the content, for example, specifying what a user can and cannot do with content, how much it cost [0405]. The distributor and the content creator may be the same person or they may be different people [0408]. The Examiner interprets this to be the functional equivalence of a licensing host. The financial clearinghouse and the VDE administrator sends "administrative information" to the VDE participants and helps keep the virtual distribution environment operating properly. The VED administration and the financial clearinghouse roles may be performed by different people or companies [0409]. The Examiner considers this to be the functional equivalence of a management system.

Figure 2 shows the VDE Rights Distributor coupled to the Financial Clearinghouse and VDE Administrator via a network.

Applicant states that claim 1 further requires the licensing host to communicate over the network with the set of software whose licensing the inquiry regards. Once again applicant states that the cited portion of Ginter do not disclose any "licensing host" that communicates with such a set of software over a network.

Again, as for applicant's comments about the **cited portions** of Ginter, the Examiner cites particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within

the individual claim, other passages and figures may apply as well. It is respectfully

requested that, in preparing responses, the applicant fully consider the references in

entirety as potentially teaching all or part of the claimed invention, as well as the context

of the passage as taught by the prior art or disclosed by the examiner.

Moreover, the usage-related "rules and controls" from the VDE Rights Distributor

(equivalent to a licensing host) distribute rights to use the content by sending the

content's "rules and controls" to the content user such as a consumer [0406]. Content

can be computer software [0396].

Applicant states that Ginter does not disclose that license parameters are sent

over a network from a management system to a licensing host that is coupled to the

management system via the network. Ginter discloses licensing parameters in

paragraph [0161]. As stated above, Ginter discloses the functional equivalence of the

management system coupled to a licensing host via a network.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stefik (US 2006/0004665) Figures 2 and 19. Figure 2 illustrates the basic interactions between repository types [0046].

Wyman (US 5,204,897) discloses a license management server and a license management system.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

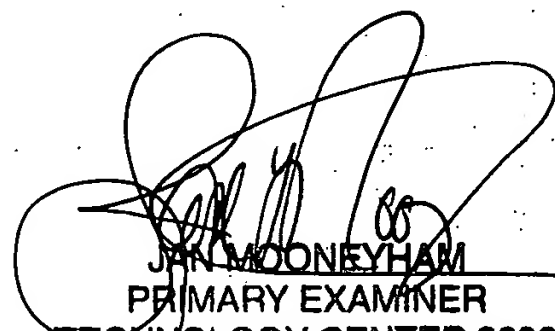policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (571) 272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAN MOONEYHAM
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600